



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2013-0400; FRL-9911-40-Region 6]

**Approval and Promulgation of Implementation Plans; Texas; Control of Air Pollution
from Nitrogen Compounds**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Texas State Implementation Plan (SIP) submitted by the Texas Commission on Environmental Quality (TCEQ) for Control of Air Pollution from Nitrogen Compounds. Specifically, three separate revisions were submitted to EPA with letters dated April 13, 2012, May 8, 2013, and May 14, 2013, respectively. We are proposing to approve these three submittals in accordance with the federal Clean Air Act (the Act, CAA).

DATE: Comments must be received on or before [Insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Submit your comments identified by Docket No. EPA-R06-OAR-2013-0400 by one of the following methods:

- *www.regulations.gov*. Follow the on-line instructions.
- E-mail: Mr. Alan Shar at shar.alan@epa.gov.
- Mail or delivery: Air Planning Section Chief (6PD-L), Environmental Protection

Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

Instructions: Direct your comments to Docket ID No. EPA-R06-OAR-2013-0400. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through www.regulations.gov or e-mail, if you believe that it is CBI or otherwise protected from disclosure. The www.regulations.gov website is an “anonymous access” system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD-ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about EPA’s public docket, visit the EPA Docket Center homepage at www.epa.gov/epahome/dockets.htm.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please

schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Shar (6PD-L), Air Planning Section, (214) 665-6691, shar.alan @epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” and “our” refer to EPA.

Outline

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I. Background

A. What actions are we proposing?

We are proposing to approve three separate revisions to the Texas SIP submitted to EPA for review and evaluation with three letters dated April 13, 2012, May 8, 2013, and May 14, 2013, from the TCEQ. These three separate submittals are described below.

1. The April 13, 2012 submittal

In a letter dated October 25, 2010, EPA requested that the TCEQ withdraw and revise its System Cap Trading (SCT) rules under 30 TAC Chapter 101 from SIP consideration. The EPA proposed disapproval of the TCEQ's SCT program on November 18, 2010, (75 FR 70654); and consequently, the TCEQ repealed and withdrew its SCT program rules from EPA's consideration as a SIP revision. Because of the TCEQ's repeal and withdrawal of the SCT program rule from the Texas SIP, on April 8, 2011, (76 FR 19739) EPA withdrew its proposed disapproval of the Texas SCT program rules. The 30 TAC Chapter 117 rules of NO_x cross-reference the SCT program rules of 30 TAC Chapter 101. Given the cross-reference linkage between the two rules, later, on April 13, 2012, the TCEQ submitted revisions to the 30 TAC Chapter 117 rule to EPA for review and evaluation.

The revisions to 30 TAC Chapter 117 remove references to the term "system cap trading" for utility electric generation sources operating in major ozone nonattainment areas and the East and Central Texas Counties. The revisions concern sections 117.1020, 117.1120, 117.1220, 117.3020, and 117.9800. The State's adopted rule was published on April 13, 2012, at 37 Texas Register 2655.

The intended effect of this removal is that the April 13, 2012, revisions to 30 TAC Chapter 117 and their corresponding provisions of 30 TAC Chapter 101 will become consistent. See section 1 of the Technical Support Document (TSD) prepared in conjunction with this rulemaking action for more information.

2. The May 8, 2013 submittal

With a letter dated May 8, 2013, the TCEQ submitted revisions to the 30 TAC Chapter 117, Subchapter D, Division 2, Dallas Fort Worth (DFW) Eight-Hour Ozone Nonattainment Area, Minor Sources. The revisions specifically concern sections 117.2103, 117.2130, 117.2135, and 117.2145. Halliburton Energy Services, Inc., located in Carrollton, Texas 75006 petitioned the TCEQ to be allowed an additional exemption in the rules in 30 TAC Chapter 117, Subchapter D, Division 2 that limit NO_x emissions from minor sources in the DFW 8-Hour ozone nonattainment area. The TCEQ approved the petition, and initiated the rulemaking process. The State's adopted rule was published on April 26, 2013, at 38 Texas Register 2634. See section 2 of the TSD for more information. On May 8, 2013, the TCEQ submitted their adopted rule revisions to EPA, requesting EPA's evaluation and approval.

3. The May 14, 2013 submittal

With a letter dated May 14, 2013, the TCEQ submitted revisions to the 30 TAC Chapter 117 to update references to Electric Reliability Council of Texas, Incorporated (ERCOT) protocols and reflect changes to ERCOT's new Emergency Service Response (ERS) program. The ERCOT manages the electrical grid within the ERCOT region of Texas, with oversight by the Public Utility Commission of Texas. Specifically, the May 14, 2013, submittal concerns revisions to the definition of emergency situation in section 117.10 Definitions. The State's adopted rule was published on April 26, 2013, at 38 Texas Register 2623. See section 3 of the TSD for more information. On May 14, 2013, the TCEQ submitted their adopted rule revisions to EPA, requesting EPA's evaluation and approval.

II. Evaluation

Our evaluation of these three submittals is as follows:

A. What is our evaluation of the April 13, 2012, submittal?

The SCT program was created to provide additional flexibility to facilities subject to emission limits specified in 30 TAC Chapter 117. Through use of emission credits generated from each affected source one could determine the compliance of these sources with their applicable NO_x control requirements. See section 117.9800.

The TCEQ later repealed and withdrew its SCT program rules from 30 TAC Chapter 101. The April 13, 2012, revisions to Chapter 117 remove references to SCT from sections 117.1020, 117.1120, 117.1220, 117.3020, and 117.9800. The removal of references to SCT from Chapter 117 rules will make both the trading rules of Chapter 101 and the NO_x control rules of Chapter 117 consistent, and will clarify the available compliance options for electric generating units in Texas. See EPA's November 1, 2011, letter to the TCEQ. The revision is administrative in nature. Therefore, we are proposing to approve the April 13, 2012, revisions to Chapter 117 into the Texas SIP.

B. What is our evaluation of the May 8, 2013, submittal?

In response to a petition from Haliburton, the TCEQ adopted a revision to their SIP that exempts stationary diesel engines that are used exclusively for product testing and personnel training, operate less than 1,000 hours per year on a rolling 12-month basis, and meet applicable EPA's Tier emission standards for non-road engines listed in 40 CFR 89.112(a), Table 1 (October 23, 1998) in effect at the time of installation, modification, reconstruction, or relocation. In addition, they have included monitoring and recordkeeping requirements for demonstrating compliance. We have included a section by section review of the affected

provisions of Chapter 117 (sections 117.2103, 117.2130, 117.2135, 117.2145) of the May 8, 2013, submittal in the TSD. See section 2, and Appendix A of the TSD.

Halliburton operates a stationary, reciprocating internal combustion engine (the drawworks engine) for the purposes of employee training and product testing at its Carrollton, Texas Plant. The drawworks engine is used for lifting and lowering casing into the test well at this plant. The test well is used solely for purposes of employee training and down-hole product testing, and is not associated with the actual oil or gas production operations. Engines used to raise and lower down-hole equipment in actual oil and gas operations in the field, which the drawworks engine is designed to simulate, are typically not subject to similar Chapter 117 testing requirements because they are not installed at one location long enough to trigger the definition of a stationary internal combustion engine in section 117.10. According to the records, the drawworks engine was installed in 2010, and the emissions testing results are compliant with the federal Tier 3 emission standards for non-road engines listed in 40 CFR 89.112(a), Table 1.

According to section 110(l) of the Act, each revision to an implementation plan submitted by a State under this chapter shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of this chapter. The TCEQ submitted a 110(l) analysis and additional information as a part of the May 8, 2013, submittal. Also, see the April 26, 2013, issue of Texas Register at 38 TexReg 2634.

As a part of this analysis we are considering the following factors: (a) the engine has been shown to meet the Tier 3 emission standards for non-road engines listed in 40 CFR 89.112(a), Table 1; (b) NO_x emissions reductions from the engine were not relied upon in the DFW

attainment demonstration SIP revision for creditable reductions; (c) this unit operates less than 1,000 hours per year; (d) actual NO_x emissions from the engine is calculated to be 0.87 tons per year (tpy) which is substantially below the 50 tpy threshold; (e) the engine is dedicated exclusively to employee training and product testing activities, and is not used for the actual oil and gas production operations; (f) section 117.2135(e) states that engine's operating time must be monitored with a non-resettable elapsed run time meter to demonstrate compliance with the operating restrictions in 117.2103(10); and (g) section 117.2145(b) requires that the records be maintained for at least five years and must be made available upon request to the State, EPA, or any local air pollution control agency having jurisdiction. Furthermore, the adopted exemption is narrow in scope and consistent with the similar existing exemptions for stationary diesel engines located at minor sources, such as stationary engines used in research and testing and stationary engines used for purposes of performance verification and testing. See sections 117.2003(a)(2)(B) and 117.2003(a)(2)(C). Therefore, we are proposing to agree with the TCEQ's explanation and the reasons as to why expansion of this partial exemption, in itself, does not adversely impact the status of the Texas' progress towards attainment of the 1997 eight-hour ozone standard, will not interfere with control measures, and will not prevent reasonable further progress toward attainment of the ozone standard. For these reasons, we find their 110(l) analysis adequate for the purpose of evaluation of the proposed revisions to 30 TAC Chapter 117. Therefore, we are proposing to approve the May 8, 2013, revisions to Chapter 117 into Texas SIP.

C. What is our evaluation of the May 14, 2013, submittal?

The May 14, 2013, revisions to the 30 TAC Chapter 117 update references to ERCOT's definition of "emergency situation" and its new ERS program that replaced the former

Emergency Interruptible Load Service Program. The changes made by ERCOT are intended to promote electric power reliability during energy emergencies by allowing operation of generators for the purpose of selling power to the electric grid under limited circumstances. The revision to the definition of “emergency situation” in section 117.10(15) will make the 30 TAC Chapter 117 definitions of “emergency situation” consistent with the ERCOT’s Nodal Protocols Section 2 (Definitions and Acronyms) of June 1, 2012. The adopted amendment does not increase the number of sources that could qualify for exemption under the Chapter 117 rules, or increase the frequency or duration of the operation during an emergency situation as compared to the approved SIP. Therefore, the adopted rulemaking will not contribute to nonattainment with the ozone NAAQS and is therefore consistent with section 110(l) of the Act. Therefore, we are proposing to approve the May 14, 2013 revisions to Chapter 117 into Texas SIP.

III. Proposed Action

Today, we are proposing to approve the April 13, 2012, revisions to 30 TAC Chapter 117 sections 117.1020, 117.1120, 117.1220, 117.3020, and 117.9800 to remove reference to SCT program rule from these sections. We are proposing to approve the May 8, 2013, revisions to 30 TAC Chapter 117 sections 117.2103, 117.2130, 117.2135, and 117.2145, to allow for partial exemption of oil and gas drawworks engines used for personnel training and product testing from NOx control requirements. We are also proposing to approve the May 14, 2013, revisions to 30 TAC Chapter 117 section 117.10(15), to update the definition of emergency. We are proposing to approve these revisions to 30 TAC Chapter 117 into Texas SIP.

IV. Statutory and Executive Order Reviews:

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. If a portion of the plan revision meets all the applicable requirements of this chapter and Federal regulations, the Administrator may approve the plan revision in part. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices that meet the criteria of the Act, and to disapprove state choices that do not meet the criteria of the Act. Accordingly, this proposed action approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act;
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994); and
- this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

Authority: 42 U.S.C. 7401 et seq.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Reporting and recordkeeping requirements.

Dated: May 13, 2014.

Ron Curry,
Regional Administrator, Region 6.